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CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
CIRCUIT SITTING  
AT NAINITAL

Original Application No. 896 of 1997

Nainital this the 22nd day of October, 2002

Hon'ble Mr. Justice R.R.K. Trivedi, V.C.  
Hon'ble Maj Gen K.K. Srivastava, A.M.

R.K.Nim

Son of Sri Jeevan Ram

Superintending Surveyor

O.C.No.70(F) Party (N.C.)No.6 Black,

Hathibarkala, Dehradun. - 248001.

.....Applicant.

By Advocate Shri K.C.Sinha

Versus

1. Union of India through Secretary  
Government of India,  
Ministry of Science & Technology,  
(Department of Science & Technology)  
Technology Bhawan, New Mehrauli Road,  
New Delhi - 110 016.

2. Surveyor General of India,  
DEHRADUN.

..... Respondents.

By Advocate Shri R.C.Joshi

O R D E R (ORAL)

By Hon'ble Mr. Justice R.R.K.Trivedi, V.C.

By this O.A. under Section 19 of the  
Administrative Tribunals Act, 1985 the applicant  
has challenged the order dated 22.4.96(annexure  
A-2), the order dated 15.1.97(annexure A-12), the  
order dated 12.3.97(annexure A-13) and order dated  
18.3.97(annexure A-14), by which the applicant has

been granted notional promotion to the post of Superintending Surveyor.

2. The facts of the case are that the applicant was serving as Deputy Superintending Surveyor. He was not considered for promotion as Superintending Surveyor on account of some adverse entry awarded to him against which he had filed representation, which was pending. Aggrieved by the action of the respondents in not considering him for promotion, he filed ~~the~~ O.A. No.199 of 1990 before the Jabalpur Bench of this Tribunal. The Tribunal allowed the O.A. on 07.12.95 and gave the following directions;

"In the result, the application is allowed in part. The respondent department is directed to constitute a review DPC to consider the case of the applicant as on the date of the meeting of the original DPC and to consider the case of the applicant excluding the adverse remarks during the period October, 1987 to June, 1988. The Judgment be complied with within a period of three months of its communication."

3. In pursuance of the aforesaid direction, a review DPC was held and ~~had~~<sup>which</sup> recommended the promotion of the applicant as Superintending Surveyor. The respondents promoted the applicant as Superintending Surveyor w.e.f. 22.04.1996, but granted him only notional promotion w.e.f. 20.12.1989, when his juniors were promoted on the basis of recommendation of original D.P.C. . Aggrieved by which, the applicant has now approached this Tribunal and has prayed that he is entitled for the entire salary as Superintending Surveyor w.e.f. 20.12.1989.

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4. For the aforesaid claim, Counsel for the applicant has submitted that in the present case the applicant was actually serving as Superintending Surveyor from 25.09.89 and even on the date he was granted promotion as Superintending Surveyor he was actually serving on the post. It is submitted that it was not a case where the principle of 'no work no pay' could be applied against the applicant and he could be given only notional promotion w.e.f. 20.12.89. Learned counsel for the applicant has placed reliance on the case of B.M. Jha Vs. Union of India and Others, O.A.No.09 of 2000 decided on 11.01.00, and Surendra Kumar Vs. Lt.Governor Delhi and Others O.A.No.05 of 1999 decided on 25.09.98 by the Principal Bench of this Tribunal. In the aforesaid Judgment, <sup>the</sup> various Judgments of the Hon'ble Supreme Court have been relied upon. Learned counsel for the respondents on the other hand has submitted that the applicant has been rightly granted notional promotion from 20.12.89 and the justice has been done to him, and he is not entitled for any further relief.

5. We have carefully considered the rival contentions of the counsel for the parties and we find force in the submissions made by the counsel for the applicant.


6. It is not disputed that the applicant was actually serving as Superintending Surveyor. The period in which he served as Superintending

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Surveyor has been mentioned in annexure C.A.-1 filed alongwith counter-reply. The period mentioned are 26.09.89 to 10.09.90, then 26.10.90 to 15.07.91, then 18.07.91 to 07.05.93, then 28.06.93 to 13.07.93 then 30.07.94 to 21.04.96. Thus, it is admitted that the applicant was actually discharging the duties as Superintending Surveyor from 20.12.89 to 21.04.96 except for ~~c~~<sup>c</sup>ertain small gaps. It is not the claim of the respondents that the applicant was paid any extra allowances for soldiering the higher responsibility of Superintending Surveyor alongwith his normal duties of Deputy ~~S~~<sup>S</sup>uperintending Surveyor. In such circumstances, we do not find any justification on the part of the respondents to deny<sup>applicant</sup> the actual salary between the period 20.12.89 to 21.04.96. It is the period when the applicant had actually worked. The case is squarely covered by the Judgment of Principal Bench, mentioned above, and the applicant is entitled for the relief.

7. The O.A. is accordingly allowed. The respondents are directed to pay the applicant the difference of salary between the Deputy Superintending Surveyor and Superintending Surveyor during the period 20.12.1989 to 21.04.96 except for the period he has not discharged such duties. There shall be no order as to costs.

  
Member (A)

  
Vice Chairman

/M.M./